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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY-DOCKET NO.	CONFIRMATION NO.
09/864,512	05/24/2001	Emilio Ramon Goitiandia	P/189-151	2441

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EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,512

Applicant(s)

GOITIANDIA, EMILIO RAMON

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-3** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, line 11, the phrase "and not attached to the base" is unclear because from the claim, it appears that applicant is regarding that the overlapping marginal regions of the sheets are the elements that are not attached to the base; however, in the argument/remark on page 3, 6th paragraph, applicant state that the flexible sheets, not the overlapping marginal regions, are not fixed to the base. If applicant is intending to say that the flexible sheets are not attached to the base instead of the marginal regions, then this new limitation is considered new matter because the specification does not disclose that the flexible sheets are not attached to the base, thus able to be displaced and moved with regard to the base as stated on page 3, 6th paragraph of the argument/remark. For examining purpose, the examiner is considering the overlapping marginal regions not attached to the base as claim 1 indicates.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1,3-6,8,9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Piltz et al. (US 4,056,221) in view of Anderson et al. (US 6,234,944B1).

For claim 1, Piltz et al. disclose a laminated package or box that is capable of being use as a cat litter box comprising a template of a rigid material base 10 having opposite surfaces and an impermeable laminar covering of plastic material 11,12 extending over the surfaces of the base; the base being shaped to define a bottom 1 with side edges (at fold lines 7) and folded up side walls 3-5 attached to the side edges of the bottom, the base including fold lines 7 at which is folded to define the side walls, the side walls having outer edges (edges running parallel to ref. 7, such as from ref. 6 to ref. 6 on the right and left side of fig. 1) opposite the fold lines; the laminar covering comprising flexible sheets (refs. 11,12 are transparent plastic laminar films which are flexible sheets and are impermeable to liquid) extending over the surfaces of the base (see figs. 5 & 6), the sheets having length and width dimensions greater than the base and marginal regions that project beyond edges of the side walls (as shown in figs. 5,6) when the side walls are not folded up (see fig. 4), the marginal regions overlap and the being joined together enclosing the base (see figs. 5,6,8-10) and not attached to the base (see figs. 5,6, marginal region is where ref. 13 is pointing at, this region is not attached to the base 10 as shown in the figs.); the base and side walls being so shaped that before folding up the side walls, there are spaces 8 between adjacent side walls, the sheets extending over the spaces (as shown in fig. 4, near refs. 17,8) such that when the side walls are folded up on the respective fold lines 7, between each two

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adjacent walls there is a zone of the laminated sheets (as shown in figs. 8-10) which is folded for defining closure flaps 8a,8a',8a'' to hold the folded up side walls. However, Piltz et al. are silent about the marginal regions being joined by heat-welding. Heat welding to seal two layers of material is a notoriously well known process for joining two elements. For example, Anderson et al. teach in fig. 3 two flexible sheets 18,30 being heat welded at their marginal regions to secure a pad therein (col. 4, lines 6-7). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the heat welding process as taught by Anderson et al. to join the two flexible sheets of Piltz et al. at their marginal regions, since it is a notoriously well known process to join two elements together, especially those of flexible sheets.

For claim 3, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose that the base is made out of rigid cardboard (col. 1, lines 6-12).

For claim 4, similar to the above explanation, Piltz et al. disclose a base 10 including a rectangular bottom 1 with four sides 2-5 (col. 3, lines 1-3, Piltz state that the assembly as a whole 16 can be rectangular which means that the base and its four sides and the laminating sheets are rectangle), the base having a respective rectangular panel at each of the four sides, each panel being joined at a respective fold line 7 with the respective side of the base such that when the panels are folded up around the fold lines, a box shape is formed (as shown in fig. 7), each of the panels being separated from adjacent ones by an open space 8 which is reduced and closed when the panels are folded up around the fold lines, the base having opposite surfaces;

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an impermeable laminar cover comprising two sheets 11,12 extending over both surfaces of the base (see figs. 5,6), the sheets having a greater length and width dimension than the base and having peripheral margins which extend beyond the panels and are joined together defining a rectangular shape (see fig. 4 and col. 3, lines 1-3 for rectangular shape), the sheets having zones (fig. 4, the zones are near refs. 8,17) extending over the spaces between adjacent panels and being so shaped that when the panels are folded up, closing the spaces between adjacent panels, the zones of laminar covering that were over the spaces are folded to form a respective closure flap 8a,8a',8a'' between the adjacent walls (see figs. 8-10). However, Piltz et al. are silent about the peripheral margins being joined by heat-welding. Heat welding to seal two layers of material is a notoriously well known process for joining two elements. For example, Anderson et al. teach in fig. 3 two flexible sheets 18,30 being heat welded at their marginal regions to secure a pad therein (col. 4, lines 6-7). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the heat welding process as taught by Anderson et al. to join the two sheets of Piltz et al. at their peripheral margins, since it is a notoriously well known process to join two elements together, especially those of flexible sheets.

For claim 5, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose the laminar covering is of a plastic material (col. 2, lines 29-30 & 63).

For claim 6, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose that the base is made out of rigid cardboard (col. 1, lines 6-12).

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For claim 8, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose the sheets 11,12 are attached at the marginal edges (figs. 5,6 near refs. 14,15 and figs. 8-10) and along an inner angle line (figs. 4,7 at refs. 17,8) that coincides with the contours of the space between adjacent side walls and also along a diagonal line (fig. 7, right at the corner near refs. 8a,1a) which crosses each space between adjacent side walls, with the attachments defining zones in the sheets that, when the side walls are folded up at the fold lines, define flaps 8a,8a',8a'' which are foldable against the adjacent walls to be adhered there (see fig. 7 which shows ref. 8a adhering to an adjacent wall 2a).

For claim 9, Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose the laminar covering is of a plastic material (col. 2, lines 29-30 & 63).

5. **Claims 2,7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Piltz et al. as modified by Anderson et al. as applied to claim 1 above, and further in view of Smith (US 3,684,155). For both claims, Piltz as modified by Anderson et al. are silent about a double fold line extending transversely across the bottom of the base and across two of the side walls so that the box may be folded over along the double fold line. Smith teaches a plurality of panels 10,10',18',13',18,13 folded along a plurality of fold lines 11',16',16,17 to form a box (as shown in fig. 1), one of the plurality of fold lines is a double fold line 11' extending transversely across a bottom 10,10' of the box and two of side walls 13',13 of the box so that the box can be folded over along the double fold line for compact storage (as shown in fig. 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a double

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fold line as taught by Smith across the bottom and side walls of the box of Piltz et al. as modified by Anderson et al. in order to allow compact storage of the box.

6. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Piltz et al. as modified by Anderson et al. as applied to claims 4,8,9 above, and further in view of Wu et al. (US 5,575,418). Piltz et al. as modified by Anderson et al. (emphasis on Piltz et al.) further disclose the flaps 8a' are folded against the exterior of the walls (see fig. 9 and col. 3, lines 27-31). However, they do not use an adhesive element to hold the flaps onto the walls. Wu et al. teach paperboard package system in which they employ glue 84 to hold corner flap (near ref. 72) of one panel 72 onto another panel 78 to form a box. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ glue as taught by Wu et al. as an alternative method to that of the heat sealing to hold the flaps onto the side walls of the box of Piltz et al. as modified by Anderson et al. since glue will be more safe and less costly than using a heat sealing device.

Response to Arguments

7. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection. However, pertinent arguments regarding Piltz et al. will be addressed below.

Applicant argued that Piltz et al.'s plastic material 11,12 are bound to the cardboard base. Col. 2, lines 43-50, of Piltz et al. clearly state that the base 10 lies loosely against the plastic material 11,12. Therefore, the material 11,12 are not bound to the base as alleged by applicant.

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Applicant states that applicant's flexible sheets are not fixed to the base and are able to be displaced and moved with regard to the base. The claim language does not indicate that the sheets are not fixed to the base; instead, the claim states, "the overlapping marginal regions...and not attached to the base". In addition, there are no support in the specification regarding the flexible sheets not being fixed to the base, thus may constitute new matter.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

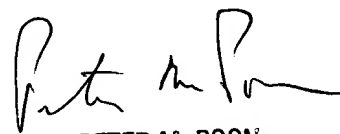
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to

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5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Son T. Nguyen
Patent Examiner, GAU 3643
January 14, 2002



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